

RE-EXAMINATION OF SETTLEMENTS HERETOFORE MADE.

LETTER

FROM THE

SECRETARY OF THE TREASURY,

COMMUNICATING

A report in regard to the re-opening and re-examining settlements heretofore made.

JANUARY 11, 1859.—Laid upon the table and ordered to be printed.

TREASURY DEPARTMENT,
January 8, 1859.

SIR: The 9th section of the act making appropriations for sundry civil expenses of the government for the year ending June 30, 1859, approved June 12, 1858, requires the Secretary of the Treasury to report all applications made by the constituted authorities of the States and cities for the re-opening and re-examination of the settlements heretofore made with such States and cities, and report the principle of readjustment on which such claim is based, and the amount thereof, to Congress at its next session.

I have the honor to transmit herewith the report of the Second Auditor of the 30th October last, and of the Third Auditor of the 15th ultimo, in regard to such claims, which arose during the war of 1812 with Great Britain, to which his computations have been confined for the reasons therein stated.

Very respectfully, your obedient servant,

HOWELL COBB,
Secretary of the Treasury.

Hon. JAMES L. ORR,
Speaker of the House of Representatives.

TREASURY DEPARTMENT,
Second Auditor's Office, October 30, 1858.

SIR: In reply to your communication of the 19th instant, requesting this office to prepare and furnish a report showing the effect of

re-opening and re-examining the settlements heretofore made in this office upon the principle of adjustment, as now claimed in favor of States and cities, in order that you may be enabled to report to Congress, so far as this office is concerned, the gross amount that will be required to pay such claims; and referring my attention to the 9th section of the act of June 12, 1858, I have the honor to report that there has not been made to this office any application, nor has any been referred to it, such as is described in said 9th section.

But understanding that the design of the framer of said section was to ascertain, by actual computation, the amount which would be required to pay to the several States and cities which have had interest accounts settled and paid to them by the United States, on moneys advanced or expended by them for the use of the United States, under a mode of computation different from that which has heretofore prevailed in the departments, I have caused an examination to be made of all interest accounts settled in this office between the United States and the several States, and find that the rule of casting interest has been, with one exception, that of the State of Alabama, to compute interest on the sum advanced by the State from the date of advancement up to the time of refunding to the State by the United States any portion of the sum advanced, deduct the sum refunded from the advancement, and then compute interest on the balance, and so on until the final payment of the principal. The aggregate of the interest column so computed has been the amount of interest paid; and this mode of computing interest seems to have been coeval with the organization of the government, as exhibited in the veto message of President Andrew Jackson, December 6, 1832, on bill entitled, "An act providing for the final settlement of the claims of States for interest on advances to the United States made during the last war."

The new contemplated method of computing interest is understood to be thus: to compute interest on the sum advanced up to the time of any payment, and then deduct the interest from the payment, and apply the balance to the extinguishment of the principal, and so on, except in those instances where the interest is found to exceed the payment. In cases of that kind, cast the interest on the principal up to the next succeeding payment, or until the payment will exceed the interest, and then deduct the interest from the payment.

By re-opening the interest accounts settled in this office, and restating them upon this latter method of computation, the aggregate sum of \$55,930 80 will be required, and will be due to the several States noted in the enclosed statement. This calculation is based upon the payment of simple interest on the sums advanced.

This office has no data upon which to base any calculation of the payment of extra interest, either in the form of discounts upon State securities sold, or premiums advanced, to procure funds or money by the States. All of which is respectfully submitted.

I have the honor to remain, very respectfully,

T. J. D. FULLER,
Second Auditor.

HON. HOWELL COBB,
Secretary of the Treasury.

Statement showing the amount required to be paid to sundry States, provided the accounts are re-opened and interest is calculated on the principle laid down in section 12th of the act of March 3, 1857, in the settlement of the account with the State of Maryland.

States.	Amount.
Maine -----	\$21,223 92
Virginia -----	2,463 85
Tennessee -----	1,411 78
Georgia -----	30,831 25
Total -----	55,930 80

TREASURY DEPARTMENT,
Third Auditor's Office, December 15, 1858.

SIR: I have the honor to submit the following report, showing the effect of re-opening and re-adjusting, on certain principles, the claims of various States and cities, heretofore settled in this office, "for interest on moneys borrowed and actually expended" by them for the use and benefit of the United States during the late war with Great Britain, that you may communicate the same to Congress, agreeably to the 9th section of "An act making appropriations for sundry civil expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-nine," approved June 12, 1858.

The said section directs that the Secretary of the Treasury "report to Congress, at its next regular session, all applications made by the constituted authorities of the States and cities for the re-opening and re-examination of the settlements heretofore made with such States and cities, and report the principle of re-adjustment upon which such claim is based, and the amount thereof. And the Secretary of the Treasury is further instructed to report to Congress, at its next regular session, the gross amount that will be required to pay such claim to the States and cities of the United States."

The only application made by the constituted authorities of States or cities for the re-opening and re-examination as above is from the State of South Carolina, referred by you to this office on the 19th October last. It appears that the total amount expended by South Carolina for military stores for the use and benefit of the United States, and on account of her militia, during the war of 1812, was \$232,722 20. This amount has been refunded in full. There has also been paid to the State of South Carolina, as interest thereon, the sum of \$125,475 04, said payments having been made under an act of Congress approved March 22, 1832.—(Vol. 4, page 499.) And yet it would appear that the effect of re-opening and re-adjusting the claim of South Carolina, computing upon the principle adopted in the case of the State of Maryland, would be to find a balance due on

31st October, 1831, of \$78,996. 41, and interest added upon that sum until 31st October, 1858, would make an aggregate balance due the State of \$202,230 90.

As before remarked, no application has been filed on behalf of any other State, nor of any cities, or other authorities; but as the act requires that you "report the principle of re-adjustments upon which such claim is based," and you request me to report the "gross amount required to pay such claim," upon such re-adjustment, I proceed to state the result of my investigations, as follows:

It appears that, during the war of 1812, various States and cities made advances—in some cases by loans made, and in others from moneys in their treasuries—on account of the militia forces, and in aid of the prosecution of the war. These expenditures, although not shown to have been made at the request of the general government, were held to have been made from patriotic motives, and to have been "for the use and benefit of the United States." Accordingly, at the conclusion of the war, provision was made by law for reimbursing the States, &c., that had made such advances. At a later period provision was also made for payment of interest in certain cases. Where the moneys so advanced had been taken out of the State treasury and applied to the public service it does not appear that any interest was paid by the United States, so far as I have been able to find, except in the case of South Carolina; and the act providing for payment of interest to her expressly recites: "the money so expended having been drawn by the State from a fund upon which she was then receiving interest."

The first of the acts for the payment of interest was approved on the 3d March, 1825, (volume 4, page 132,) being "An act authorizing the payment of interest due to the State of Virginia," and provides as follows: "That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to liquidate and settle the claim of the State of Virginia against the United States for interest upon loans, or moneys borrowed and actually expended by her, for the use and benefit of the United States, during the late war with Great Britain." "That, in ascertaining the amount of interest, as aforesaid, due to the State of Virginia, the following rules shall be understood as applicable to and governing the case, to wit: First. That interest shall not be computed on any sum which Virginia has not expended for the use and benefit of the United States, as evidenced by the amount refunded or repaid to Virginia by the United States. Second. That no interest shall be paid on any sum on which she has not paid interest. Third. That when the principal, or any part of it, has been paid or refunded by the United States, or money placed in the hands of Virginia for that purpose, the interest on the sum or sums so paid or refunded shall cease, and not be considered as chargeable to the United States any longer than up to the time of repayment, as aforesaid."

This act, before being executed by the accounting officers of the treasury, was referred to the Attorney General, Mr. Wirt, for his opinion thereon. Subsequently settlements were made, and payments

of interest, to the amount of \$178,480 11, were made to the State of Virginia, the total amount of advances made by her being \$1,782,330 20, as evidenced by former settlements and repayments. The principle adopted in this settlement, and as laid down in the rules prescribed in the act, cannot be more clearly stated than was done by the Attorney General in the following extract from his opinion:

"The leading idea is, manifestly, that Virginia has had to pay interest on moneys borrowed on account of advances for the use and benefit of the United States during the late war; that however reasonable it might be to refuse interest to a State who had made such advances out of her own treasury, and who, although she had lost the interest on such advances had paid none, yet that where a State's advances for the United States had actually subjected her to the payment of interest on account of loans which she had been forced to make by reason of such advances, it was but reasonable that she should be reimbursed the interest which she had been thus obliged actually to pay."

Upon this principle Virginia was reimbursed the interest which she had *actually paid*. She did not seek or claim to occupy the position of a creditor demanding interest as compensation or damages for moneys due and withheld, to be computed according to strictly legal rules, as between debtor and creditor in ordinary cases, in the calculation of the interest as well as the application of the payments, first, to the liquidation of interest already accrued, and the excess only, if any, to be principal. All that was then desired was to be saved harmless, that the general government should reimburse to her the interest she had actually paid. In other words, the mode of settlement and computation now claimed assumes that the interest was payable, as of course, on the advances made from the time of such advances; that the repayment, or refundments, made by the United States after the close of the war of the principal sums advanced shall not be considered as payments on the *principal*, but that interest shall be calculated on such advances up to the time of the payment and it first applied to the liquidation of the accrued interest, the excess only, if any, to be applied to the reduction of principal. This mode, it will be readily perceived, necessarily leaves a balance of *principal* unpaid at the time when the various acts were passed for the payment of interest, with additional accrued interest thereon for years, as the first of these acts providing for the payment of interest was passed in 1826, and interest on such sums is claimed *until the present time*.

This, in brief, is the distinction between the mode adopted in the settlement made with Virginia and other States, as will presently appear, and that more recently adopted in the case of the State of Maryland, and now claimed by the State of South Carolina. Applying, therefore, this latter mode of computation to the case of the State of Virginia, it appears that on the 14th of July, 1829, a balance would be due to her of \$734,069 60, and interest added on that sum till the 1st of January, 1859, would make an aggregate of \$1,076,683 35. On the 13th of May, 1826, an act was passed

"authorizing the payment of interest due to the State of Maryland," being an exact transcript of the one passed in the case of Virginia, except in the change of names, and upon settlement the sum of \$52,552 85 was allowed and paid; the principal sums advanced by Maryland for the use and benefit of the United States, as evidenced by the amount refunded or repaid to her, being \$290,051 03. In the settlement under this act, however, a difference of opinion arose between the accounting officers and the authorities of the State of Maryland as to whether she was entitled to interest on certain sums which had been borrowed by her, and paid by the sale of certain interest-bearing stocks after the time of the payment as aforesaid. By section 12 of the "Act making appropriations for certain civil expenses of the government for the year ending June 30, 1855," approved March 3, 1857, a re-examination and re-adjustment of the account of the State of Maryland was directed to be made; and it was further provided that in the calculation of interest the following rules should be observed: "Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second. Interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest, or lost interest by the transfer of an interest-bearing fund." The opinion of the Attorney General was had as to the proper construction of this act, and upon it a settlement was made by which a further sum of \$275,770 23 was allowed and paid to the State of Maryland. She has, therefore, no further claim against the United States."

On the 20th of May, 1826, an act was passed "authorizing the payment of interest to the State of Delaware," (vol. 4. page 175,) precisely similar in its provisions to the act for payment of interest to Virginia, and prescribing the same rules. Under this act the sum of \$6,530 was paid to the State of Delaware, the sum of \$34,545 72 having been advanced by her, and refunded by the United States. Applying the rules for computation of interest, as laid down in the last recited act in the case of Maryland, there would appear to be a balance due, December 26, 1826, of \$6,341 99; and interest thereon till January 1, 1859, would make \$18,540 97.

On the 22d of May, 1826, an act was passed "authorizing the payment of interest due to the State of New York," under the same rules and restrictions as had been prescribed in the case of Virginia, and upon a settlement made thereon the sum of \$40,624 86 was allowed and paid. The total advances made by New York, as evidenced by refundments made by the United States, was \$123,561 36. Applying the principle of computation prescribed in the act of 1857, in the case of Maryland, a balance would appear to be due to the State of New York, on the 26th of October, 1826, of \$27,361 81; and the interest on that sum until the 26th of October, 1858, would make the amount now due \$48,896 21.

On the 3d of March, 1827, an act was passed "authorizing the

payment of interest to the State of Pennsylvania," (vol. 4, page 241,) prescribing the same rules as the before recited acts, and the sum of \$40,264 86 allowed and paid, the principal sums advanced and previously repaid by the United States amounting to \$292,112 48. Applying the principle of computation as laid down in the last act in the case of Maryland, a balance would appear to be due to Pennsylvania of principal, on the 20th of August, 1824, of \$71,411 19, and \$28,560 15 of interest; and after deducting certain payments subsequently made, and computing the interest till the 1st of January, 1859, there would appear to be a total balance in favor of Pennsylvania of \$218,507 71.

On the 20th of May, 1826, an act was passed "authorizing the payment of interest to the city of Baltimore," (vol. 4, page 177,) prescribing the same rules, and the sum of \$21,710 25 was allowed and paid, the principal sums advanced and previously repaid amounting to \$38,630 94. By restating the account as above, a balance of principal would appear on the 15th of August, 1826, of \$8,027 55, and interest on that sum till the 1st of January, 1859, would make a balance in favor of the city of Baltimore of \$23,662 55.

It is proper to state that payments appear to have been made to various other States for claims arising out of the war of 1812, and for advances made by them, such as for services of militia, munitions of war, &c., on which no interest was authorized by the acts directing their payment. In all such cases no interest has been allowed and paid. I have not thought it necessary to go into a revision of these settlements, as I understand the call for information to relate only to those which have received interest, and the effect of reopening and readjustment of those accounts upon principles of computation different from these laid down in the acts under which the settlements were originally made.

I have therefore to report the gross amount required to pay such claims on readjustment of the accounts of States and cities for interest on sums advanced during the war of 1812, on the principle of computation and application of payments, herein before indicated, at \$1,588,521 69.

It has been suggested that the call for information is not confined to claims arising out of the war of 1812, but may embrace all settlements made at any period prior or subsequent to said war, where interest has been, or might properly be, allowed. There have been, since the organization of the government, many such claims allowed and paid growing out of various Indian wars and the Mexican war. To refer to every settlement of this description and investigate the principle of computation adopted in each case—for there has been no uniform rule observed, each case being settled according to the language of the act authorizing and directing the settlement—revising and readjusting the same, would require the withholding this report for considerable time yet. I have therefore thought best to communicate the result of my investigations so far, and if it is desired that the investigation be extended, it can be made the subject matter of another report.

I have referred, however, to some of the acts passed at a late period, and find that where provision was made for payment of interest no special rules of computation were prescribed. In these cases interest, of course, was calculated in the ordinary way, and a revision and readjustment would, therefore, not change the settlements heretofore made.

Respectfully submitted.

R. J. ATKINSON,
Third Auditor.

Hon. HOWELL COBB,
Secretary of the Treasury.

RECAPITULATION.

Due South Carolina, on readjustment.....	\$202,230 90
Due Virginia.....	1,076,683 35
Due Delaware.....	18,540 97
Due New York.....	48,896 21
Due Pennsylvania	218,507 71
Due City of Baltimore	23,662 55
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